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| 09/756,588 | 01/08/2001 | Kenneth Paul Singleton | 856 | 5614 |

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02/20/2002

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EXAMINER

WORRELL JR, LARRY D

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 02/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 7

Application Number: 09/756588
Filing Date: 1/8/01
Appellant(s): Kenneth Singleton

John D Gugliotta
For Appellant

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed 12/27/01.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

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A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims of group 1 (claims 1-4) and the claims of group 2 (claims 5-8) do not stand or fall together and provides reasons as set forth in 37 CAR 1.192(c)(7) and (c)(8).

Claims 1-4 stand or fall together.

Claims 5-8 stand or fall together.

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(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

| | | |
|-----------|---------------|---------|
| 2,578,895 | Meengs et al. | 12-1951 |
| 4,513,359 | Kearns | 4-1985 |

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Meengs et al.

This rejection is set forth in prior Office action, Paper No. 4.

Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meengs et al. in view of Kearns. This rejection is set forth in prior Office action, Paper No. 4.

(11) *Response to Argument*

Initially it is noted that independent claim 1 is directed towards a sock and contains two elements, namely an inner cuff and a foldable outer cuff. Each of these claimed elements finds a clear counterpart in the teachings of Meengs et al., specifically inner cuff (4) and foldable outer cuff (5). Applicant has not particularly argued the rejection of independent claim 1 and dependent claim 2 under 102(b). Rather applicant has argued on page 4-5 of the

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brief that the outer cuff (5) of Meengs et al. is not *integrally* formed with the leg covering portion (3). This specific limitation is found in appellant's dependent claim 3. Appellant further argues that because the inner cuff is fabricated as a *separate loop* from the outer cuff, the outer cuff cannot be considered integrally formed with the leg covering portion. The examiner disagrees. It is self-evident from even a cursory review of Meengs et al. that the outer cuff (5) and the leg covering portion (3) are integrally formed. See figures 1, 2 and 4 of Meengs et al. The fact that many individual and *separate loops* are knitted together to form the outer cuff and leg covering portion does not take away from the fact that these elements are integrally formed. Note column 2, lines 1-5 of Meengs et al. which clearly sets forth that the loops are integrally formed. Appellant also argues that the reference of Meengs et al. fails to teach a selvage made up of several rounds of elastic yarns. The examiner has never indicated that the reference of Meengs et al. teaches such elastic yarns. In fact the examiner combined the teachings of Kearns with Meengs et al. for the express purpose of adding multiple elastic rounds to the selvage of Meengs et al. Note column 3, lines 19-28 of Kearns which indicates multiple rounds of elastic yarn. In response to appellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. In this case, it would have been obvious at the time the invention was made to one of ordinary skill in

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the art to which the invention pertains to provide the selvage area of the outer cuff of Meengs et al. with elastic yarns as shown by Kearns in order to increase the elasticity of the outer cuff portion of Meengs et al. and thereby maintain the cuff taut against the sock.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


DANNY WORRELL
PRIMARY EXAMINER

LDW
January 13, 2002

Conferences

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Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in ABANDONMENT of the application.